IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

WP(C).No. 19466 of 2007(P)

PETITIONER:

R.RADHAKRISHNAN NAIR,
AGED 52 YEARS, S/O RAMAKRISHNA PILLAI,
KRIPHA BHAVAN, V.P.10/665, VIZHAVOOR,
MALAYAM P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.T.M.ABDUL LATHEEF.

RESPONDENTS:
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1. **SUB INSPECTOR OF POLICE,**
   MALAYINKEEZHU POLICE STATION,
   MALAYINKEEZHU.

2. **SUB INSPECTOR OF POLICE,**
   VANCHIYOOR POLICE STATION,
   VANCHIYOOR, THIRUVANANTHAPURAM.

3. **ROSAMMA JOSEPH,**
   S.N.PRINTERS, 2ND FLOOR, PEYAD JUNCTION,
   PEYAD P.O., KURISUMUTTOM WARD,
   THIRUVANANTHAPURAM- 695 073.

4. **THOMAS JOSE, PARAKKAL HOUSE,**
   KOVILLOOR DESOM, AMBOORI.

BY GOVERNMENT PLEADER SRI. SALIM.P.A.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/11/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.19466/2007-P:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE SALE DEED DTD. 17/12/2005.

EXT.P.2: COPY OF THE RECEIPT DTD. 12/01/2006.

EXT.P.3: COPY OF THE RECEIPT DTD. 27/04/2006.

EXT.P.4: COPY OF THE MEDICAL CERTIFICATE DTD. 13/09/2006 ISSUED BY DR. TINY NAIR.

EXT.P.5: COPY OF THE PETITION DTD. 22/06/2007 SUBMITTED BY THE PETITIONER BY THE R.1.

EXT.P.6: COPY OF THE PETITION DTD. 22/06/2007 SUBMITTED BY THE PETITIONER BY THE R.2.

RESPONDENT'S EXHIBITS: **NIL.**

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 19466 OF 2007-P

Dated 2nd November, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner has approached this Court, seeking police protection in view of the threat to the life of him and his family members from the part of respondents 3 and 4. The petitioner sold a property to the 3rd respondent. At the time of sale there was a charge on the said property in favour of Indian Overseas Bank. The petitioner submits, the said charge was disclosed to the 3rd respondent and the price was also fixed accordingly. Now, the 3rd respondent is demanding that the petitioner should settle liability to the said Bank. The 4th respondent, her brother is supporting her. They are coming to the residence of the petitioner and threatening him and his family members. In the above background, the petitioner filed Exts.P5 and P6 representations before respondents 1 and 2 respectively, seeking protection to him and his family members. Thereafter, this writ petition is filed, seeking appropriate reliefs.

2. The learned Government Pleader, upon instructions, submitted that the 3rd respondent has filed a complaint before the police alleging that the petitioner cheated her by selling the property without disclosing the charge on it in favour of the Bank. Therefore, Crime No.57/2007 has been registered against the petitioner for the offence of cheating and the police are investigating the same.

3. If the allegation against the petitioner is correct, he is not entitled to get any protection. But, the learned counsel for the petitioner submits that the said allegation is unfounded. But, it is a disputed question of fact, which we cannot resolve under Article 226 of the Constitution of India.

4. The submission made by the learned Government Pleader shows that the petitioner is an accused in a cheating case and his complaint is against the actions of the persons stated to be cheated. In view of the above position, we are not inclined to grant any protection to the petitioner, invoking this Court's discretionary jurisdiction under Article 226 of the Constitution of India. Accordingly, the writ petition is dismissed without

prejudice to the contentions of the petitioner and his right to move the civil/criminal court for appropriate reliefs.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/